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7590		03/27/2007		
Xin Wen				
2800 Bridge Parkway				
Redwood City, CA 94065-1192				
		EXAMINER		
		NGUYEN, CAO H		
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If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 is not tangible. The preamble of independent claims 1, 10 and 16 recite " A computer-implemented method for uploading image data to a remote computer, comprising ", which is directed to software, per se, lacking any hardware to enable any functionality to be realized. The claimed features and elements of independent claims 1, 10 and 16 do not include hardware components or features that are necessarily implemented in hardware. Therefore, the claimed features of claims 1, 10 and 16 are actually a software, or at best, directed to an arrangement of software, and software claimed by itself, without being executed or implemented on a computer medium, is intangible.

To expedite a complete examination of the instant application, the claims rejected under 35U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of the applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pajitnov et al. (US Patent No. 6,102,796) in view of Hoffert et al. (US Patent No. 6,374,260).

Regarding claims 1 and 10, Pajitnov discloses a computer-implemented method for uploading image data to a remote computer comprising defining an area in a user interface adapted to receive an image (see col. 24, lines 4-33); partitioning the image into one or more fragments (see col. 14, lines 44-63); and uploading each fragment to the remote computer (see figures 7-8); however, Pajitnov fails to explicitly teach generating a thumbnail associated with the image when the image is associated with the area.

Hoffert teaches generating a thumbnail associated with the image when the image is associated with the area (see col. 10, lines 1-65). It would have been obvious to one of an ordinary skill in the art, having the teaching of Pajitnov and Hoffert at the time the invention was made, to modify uploading each fragment to the remote computer of Pajitnov to include generating a thumbnail associated with the image when the image is associated with the area, as

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taught by Hoffert. One would have been motivated to make such a combination in order to enable user a preview image before selecting or uploading partitioning image to the remote computer.

Regarding claims 2 and 11, Pajitnov discloses determining whether a fragment upload was successful (see col. 5, lines 1-62).

Regarding claims 3 and 12, Pajitnov discloses further comprising generating a message if one or more fragment uploads had failed (see col. 7, lines 10-67).

Regarding claims 4 and 13, Pajitnov discloses further comprising retrying the uploading step if the fragment upload failed (see col. 9, lines 17-63).

Regarding claims 5 and 14, Hoffert wherein the message relates to one or more of the following: the name of the file, the number of fragments received, the number of outstanding fragments, the location of the file, and instructions on finishing the upload (see col. 7, lines 54-65 and col. 8, lines 1-33).

Regarding claims 6 and 15, Hoffert discloses wherein generating the thumbnail further comprises decompressing the image file (see col. 4, lines 18-67).

Regarding claim 7, Hoffert discloses wherein generating the thumbnail further comprises loading the local thumbnail into a browser for viewing (see col. 10, lines 18-56).

Regarding claims 8 and 9, Hoffert discloses further comprising generating metadata associated with each fragment (see col. 11, lines 5-21).

As per claims 16-20 are apparatus claims that corresponds to method claims 1-15, and thus are rejected for the aforementioned reason.

Response to Arguments

Applicant's arguments filed on 01/16/07 have been fully considered but they are not persuasive.

The arguments have been discussed as above.

Accordingly, the claimed invention as represented in the claims does not represent a patentable distinction over the art of record.

Conclusion

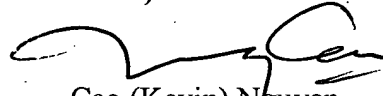
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cao (Kevin) Nguyen whose telephone number is (571)272-4053. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571)272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Cao (Kevin) Nguyen
Primary Examiner
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03/19/07